

1

2

2

4

5

6

7

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ROMMIE MOSS,

Petitioner,

VS.

DWIGHT NEVEN, *et al.*,

Respondents.

Case No. 2:14-cv-01451-JCM-NJK

ORDER

This is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254, by a Nevada state prisoner.

On September 11, 2014, the court entered an order requiring petitioner to pay the \$5.00 filing fee for this action within thirty days. (ECF No. 2). Because it appeared that petitioner failed to pay the filing fee as required, the court dismissed this action by order filed December 3, 2015. (ECF No. 3). Judgment was entered the same date. (ECF No. 4).

Petitioner has filed a motion for reconsideration. (ECF No. 5). Attached to petitioner's motion is a receipt, issued by the clerk of court, indicating that, on September 30, 2014, petitioner paid the \$5.00 filing fee for this action. (ECF No. 5, at p. 5). Apparently, the clerk of court failed to make a notation on the docket to indicate that petitioner had paid the filing fee. Consequently, the court dismissed this action for failure to obey its order to pay the filing fee. Because petitioner has, in fact, paid the filing fee, his motion for reconsideration is granted.

1 The court has reviewed the habeas petition, and it shall be served on respondents.

2 Respondents shall file a response to the petition, as set forth at the conclusion of this order.

3 **IT IS THEREFORE ORDERED** that petitioner's motion for reconsideration (ECF No. 5)
4 is **GRANTED**.

5 **IT IS FURTHER ORDERED** that the clerk of court **SHALL REOPEN** this action.

6 **IT IS FURTHER ORDERED** that the clerk of court **SHALL MODIFY THE DOCKET**
7 to indicate that petitioner has paid the filing fee for this action. The clerk shall scan in and file the
8 receipt of petitioner's payment of the filing fee, as found at ECF No. 5, at p. 5.

9 **IT IS FURTHER ORDERED** that the clerk shall **FILE and ELECTRONICALLY**
10 **SERVE** the petition upon the respondents. The clerk **SHALL ADD** attorney general Adam Paul
11 Laxalt to the CM/ECF docket sheet.

12 **IT IS FURTHER ORDERED** that respondents shall have **forty-five (45)** days from entry
13 of this order within which to answer, or otherwise respond to, the petition. In their answer or other
14 response, respondents shall address all claims presented in the petition. Respondents shall raise all
15 potential affirmative defenses in the initial responsive pleading, including lack of exhaustion and
16 procedural default. **Successive motions to dismiss will not be entertained.** If an answer is filed,
17 respondents shall comply with the requirements of Rule 5 of the Rules Governing Proceedings in
18 the United States District Courts under 28 U.S.C. §2254. If an answer is filed, petitioner shall have
19 **forty-five (45) days** from the date of service of the answer to file a reply.

20 **IT IS FURTHER ORDERED** that any state court record exhibits filed by respondents shall
21 be filed with a separate index of exhibits identifying the exhibits by number or letter. The hard copy
22 of all state court record exhibits shall be forwarded, for this case, to the staff attorneys in the **Reno**
23 division of the clerk of court.

24 **IT IS FURTHER ORDERED** that, henceforth, petitioner shall serve upon the attorney
25 general of the state of Nevada a copy of every pleading, motion, or other document he submits for
26 consideration by the court. Petitioner shall include with the original paper submitted for filing a
27 certificate stating the date that a true and correct copy of the document was mailed to the attorney
28 general. The court may disregard any paper that does not include a certificate of service. After

1 respondents appear in this action, petitioner shall make such service upon the particular deputy
2 attorney general assigned to the case.

3 Dated September 4, 2015.

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

James C. Mahan
UNITED STATES DISTRICT JUDGE